



Formerly The Foundation for Taxpayer & Consumer Rights

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October 15, 2008

Chairman Ross Johnson  
Commissioners Hodson, Huguenin, Leidigh and Remy  
Fair Political Practices Commission  
428 J Street, Ste. 800  
Sacramento, CA 95814  
Fax: 916-322-6440

*Via Facsimile*

Re: Oct 16, 2008 meeting – Agenda Items 11 & 9

Dear Chairman and Commissioners:

Proposed regulation 18247.5 would create guidelines to help political committees determine whether they are 'primarily formed' or 'general purpose.' We applaud the effort to ensure committees properly identify themselves and that they fully disclose their interests and funding. We are concerned, however, that the regulation as currently drafted may create more confusion by incorrectly requiring some general purpose committees to file as primarily formed committees.

The distinction between general purpose and primarily formed committees is made in the PRA. General purpose committees allow a person to collect or spend money on behalf of a broad set of goals over time, rather than a specific interest on one ballot. This type of committee is prevalent for organizations that weigh in on ballot measures.<sup>1</sup> A business association could form a general purpose committee to fight all initiatives promoting tax increases; a consumer advocacy group might form a general purpose committee to weigh in on all measures affecting consumers' interests at the ballot. Donors give to that broad purpose, whether tax cutting or consumer protection, not for the primary purpose of a specific measure or measures on one ballot.

Your proposed regulation could largely eliminate this distinction. It states that a primarily formed committee is one that spends 70% of its money during two calendar years on any measure or number of measures on the same ballot. This definition could easily encompass most committees that spend money, for example, in every general election because statewide elections occur just once every two years. Specifying

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<sup>1</sup> Most of the same concerns are raised with general purpose committees formed to spend money on candidates. Our comments are limited to committees that spend only on ballot measures for simplicity.

calendar years, and not the 24 months prior to the date of calculation, increases the chances that a general purpose committee would be miscategorized as primarily formed because spending on a prior election would be unlikely to fall within the two-year time frame for a current election year. Even a 24-month look back is likely to result in the mischaracterization of legitimately labeled general purpose committees that are not active in one election cycle, because, for example, there are no tax measures relevant to the supposed anti-tax committee described above.


The two-year time frame, whether calendar years or otherwise, could also make the percentage of spending irrelevant. A committee that spends only during statewide general elections would do one hundred percent of that spending on a measure or measures on the same ballot, and the calculation would then reset for every election, making it a perennial primarily formed committee under the proposed regulation.

As we understand it, this regulation does not intend to redefine an issue-oriented PAC that is active during multiple elections as a primarily formed committee. However, we believe that under the proposed rules most committees would likely be considered primarily formed. At the very least, these rules would create more confusion about when a committee is general purpose and when it is primarily formed and thereby undermine the goal of clarity that led to this rulemaking process. Increasing the length of time under consideration – for instance a five-year period rather than a two-year period – could lessen the chance that activity, or the lack thereof, during one election would cause a committee to be improperly redefined.

In the interests of greater disclosure, we would also urge the Commission to pursue an expansion of reporting requirements for general purpose committees in the legislature so they mirror the rules for primarily formed committees. This would provide better information about general purpose committees while preserving their distinction from those that are primarily formed.

Consumer Watchdog supports the proposals in regulations 18402.1 and 18427 that would define the "principal officer" of a committee as the person or persons who control it and would ensure those people are identified in campaign reports.

Sincerely,



Carmen Balber

cc: Hyla P. Wagner  
Brian G. Lau  
Scott Hallabrin